

STATE OF MICHIGAN
COURT OF APPEALS

KEVIN PAGE and STEVEN PAGE, as Personal
Representatives of the Estate of MARVIN H.
PAGE,

Plaintiffs-Appellees,

v

JOSHUA ALEXANDER SLAGH and RONALD
SLAGH,

Defendants-Appellants.

UNPUBLISHED
February 15, 2007

No. 264159
Ottawa Circuit Court
LC No. 03-047319-NI

SHERRIE RICE, as Next Friend of DUSTIN
RICE, Minor,

Plaintiff-Appellee,

v

JOSHUA ALEXANDER SLAGH and RONALD
SLAGH,

Defendants-Appellants.

No. 264160
Ottawa Circuit Court
LC No. 03-048052-NI

SHERRIE RICE, as Personal Representative of the
Estate of RACHEL MARIE PAGE,

Plaintiff-Appellee,

v

JOSHUA ALEXANDER SLAGH and RONALD
SLAGH,

Defendants-Appellants.

No. 264161
Ottawa Circuit Court
LC No. 03-048051-NI

Before: Fort Hood, P.J., and Smolenski and Murray, JJ.

MEMORANDUM.

In this case, defendants Joshua and Ronald Slagh appeal the jury's award of damages as grossly excessive. We affirm.

Defendants' sole issue on appeal is unpreserved¹ because the question was not addressed by the trial court in the first instance. Because the issue is unpreserved, we may decline to address it. *Booth Newspapers, Inc v Univ of Michigan Bd of Regents*, 444 Mich 211, 234; 507 NW2d 422 (1993). However, preservation requirements may be disregarded if resolution of the issue is necessary for a proper determination of the case, the claim presents a question of law for which all facts have been presented, or failure to consider the issue would result in manifest injustice. *Herald Co, Inc v Kalamazoo*, 229 Mich App 376, 390; 581 NW2d 295 (1998); *Butler v DAHE*, 121 Mich App 727, 742; 329 NW2d 781 (1982). We find that resolution of the presented issue is not necessary for a proper determination of the case, and the claim does not present a question of law. Further, we find that no manifest injustice would result from not considering the issue.

The jury's award of damages in this case does not demonstrate a manifest injustice such that defendants' forfeited issue needs to be reviewed. First, defendants have not shown that the jury awards fell outside of the highest amount supported by the evidence. Several witnesses provided ample testimony supporting plaintiffs' claims. Second, defendants' argument that the awards were due to an error of law because the jury included an award for future damages in its current damages award, is speculative and made without citation to applicable authority. Third, defendants' claim of juror misconduct is similarly speculative and made without citation to appropriate authority. Fourth, defendants' implied contention that out-of-court comments by plaintiffs' attorney, regarding the size of the award, demonstrates that the award is clearly excessive is unavailing. Defendants have provided no statistical comparison of similar claims in Ottawa County or elsewhere. We are convinced that manifest error will not result if defendants' claim is not reviewed.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Michael R. Smolenski
/s/ Christopher M. Murray

¹ We recognize that defendants claim that the judgments were not timely served, resulting in their inability to timely file a motion for new trial or remitter. Our resolution of this case, however, would be the same even if defendant had properly preserved the issue.